REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 1-3, 5-17, 19-20, and 22-43 were pending. By this Reply, claims 44-49 have been added. Claims 1, 17, 34, 35, 38, and 41 are independent.

§ 102 REJECTION – YAMAUCHI

Claims 1-3, 5-6, 9-13, 15, 17-20, 22-23, 26-30, 32, and 34 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Yamauchi et al. (USPN 6,020,982). *See Final Office Action, page 3, item 3.* Applicants respectfully traverse.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. *See M.P.E.P. 2131; M.P.E.P. 706.02.* Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn. Since Yamauchi cannot be relied upon to teach or suggest all features of the rejected claims, the rejection fails.

Yamauchi is directed towards image data processing apparatus for converting an optical image taken by a camera into a digital image data, and recording and reproducing on a recording medium. *See Yamauchi, column 1, lines 13-18.* As shown in Fig. 1 of Yamauchi, the image processing apparatus

is mainly composed of an electronic still camera 11, a filing device 500, and an editing machine 600. *See also column 9, lines 46-64.*

The filing device 500 incorporates a card type connector 504. The electronic still camera 11 may either write data to the memory card 400 or to the filing unit 500. The editing machine 600 may receive data from the memory card 400, the filing unit 500 (and hence from the card type connector 504), intelligent card 811, or videotape recorders 807 and 808. In the Final Office Action, the Examiner alleges that Figure 76 and column 44, line 58 – column 45, line 14 of Yamauchi discloses the feature of "wherein said predetermined automatic selection basis is set based on the order of media loaded to said plurality of medium wearable units" as recited in independent claims 1, 17, and 34. *See Final Office Action, page 2, item 2.*

This allegation fails. The specific portions of Yamauchi relied upon by the Examiner exclusively describes the editing machine 600. Figure 76 merely describes the memory card data input/output part 629, which is a part of the editing machine 600. *See figures 62 and 74; column 37, line 65 – column 38, line 5; column 42, lines 12-15.* In the Final Office Action, the Examiner alleges that Yamauchi inherently teaches the feature of automatically selecting the memory on the basis of order of how they are loaded into the device. With reference to Figure 76, the Examiner alleges that the if the slots 614 and 615 are occupied and memory of the card in one slot, 614 for example, is filled, then the card of

the other slot 165 is automatically selected. *See Final Office Action, page 2, lines 14-19.*

There is no such disclosure in Yamauchi. Yamauchi merely discloses that the card selection control part 629a is used to select any one the slots 614 or 615 or the card tray 616 of the editing machine 600 for data transfer. *See Yamauchi, column 44, lines 59-62.* Yamauchi describes the data transfer process of the editing machine 600 with reference to Figures 83A and 83B. *See also column 48, line 28 – column 49, line 7.* Yamauchi clearly indicates that the data transfer is under the control of the CPU, i.e. the CPU selects the transfer source and transfer destination addresses. *See Figure 83A, step 144; column 48, lines 30-33.* In step 150, the amount of data to be transferred is determined. *See column 48, lines 42-44.* The data transfer takes place and post processing is performed depending on whether or not the transfer of data is successful or not. *See column 48, line 62 – column 49, line 7.*

It is noted that there is no discussion regarding actions that the CPU performs if memory of the selected destination becomes full prior to completing the data transfer.

At best, the system of Yamauchi may simply issue an alarm or perform an error recovery processing. With reference to Figures 83A and 83B, Yamauchi states "If data transfer is not finished normally (NO), the CPU judges an abnormal end in step 158, and sets about the corresponding routine or

instructs issuing of alarm." *See Figure 83B, step S158; column 48, line 67 – column 47, line 3.*

Therefore, contrary to the Examiner's allegation, Yamauchi does not inherently teach the above-recited feature of "wherein said predetermined automatic selection basis is set based on the order of media loaded to said plurality of medium wearable units."

Indeed, Yamauchi does not even contemplate any type of predetermined automatic selection basis at all. In the Final Office Action, the Examiner alleged that Figure 88 and column 57, lines 50-63 teaches setting of a predetermined basis based on the order of media loading. *See Final Office Action, page 4, lines 14-20.*

Contrary to the Examiner's allegation, column 57, lines 50-63 actually refer to Figures 104A and 104B. The relied upon text portion merely describes Yamauchi's "preserve function" where a user may record a series of selections and then have the series executed later. In other words, the relied upon portion is merely a description of a "macro" recording capability. Clearly, recording a macro and automatically executing the macro cannot be equivalent to selection based on a predetermined basis.

For at least the reasons stated above, independent claims 1, 17, and 34 are distinguishable from Yamauchi. Claims 2-3, 5-6, 9-13, 15, 19-20, 22-23, 26-30, and 32 depend from claims 1 or 17 directly or independently. Therefore,

for at least the reasons stated with respect to claims 1 and 17, these dependent claims are also distinguishable from Yamauchi.

Applicants respectfully request that the rejection of claims 1-3, 5-6, 9-13, 15, 17-20, 22-23, 26-30, 32, and 34 based on Yamauchi be withdrawn.

§ 103 REJECTION – YAMAUCHI, AKAMINE

Claims 7-8 and 24-25 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Yamauchi in view of Akamine et al. (USPN Re. 36,589). *See Final Office Action, page 10, item 3.* Applicants respectfully traverse.

It has been shown above that independent claims 1 and 17 are distinguishable over Yamauchi. Akamine has not been, and indeed cannot be, relied upon to correct for at least the above-noted deficiencies of Yamauchi. Therefore, independent claims 1 and 17 are distinguishable over the combination of Yamauchi and Akamine.

Claims 7-8 and 24-25 depend from claims 1 or 17, directly or independently. Therefore, for at least the reasons stated with respect to claims 1 and 17, these dependent claims are also distinguishable from the combination of Yamauchi and Akamine.

Applicants respectfully request that the rejection of claims 7-8 and 24-25 based on Yamauchi and Akamine be withdrawn.

§ 103 REJECTION – YAMAUCHI, MURATA

Claims 14 and 31 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Yamauchi in view of Murata et al. (USPN 5,627,587). *See Final Office Action, page 11, item 4.* Applicants respectfully traverse.

It has been shown above that claims 1 and 17 are distinguishable over Yamauchi. Murata has not been, and indeed cannot be, relied upon to correct for at least the above-noted deficiencies of Yamauchi. Therefore, independent claims 1 and 17 are distinguishable over the combination of Yamauchi and Murata.

Claims 14 and 31 depend from claims 1 or 17. Therefore, for at least the reasons stated with respect to claims 1 and 17, these dependent claims are also distinguishable from the combination of Yamauchi and Murata.

Applicants respectfully request that the rejection of claims 14 and 31 based on Yamauchi and Murata be withdrawn.

§ 103 REJECTION – YAMAUCHI, WAKUI

Claims 16 and 33 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Yamauchi in view of Wakui (USPN 5,986,700). *See Final Office Action, page 12.* Applicants respectfully traverse.

It has been shown above that claims 1 and 17 are distinguishable over Yamauchi. Wakui has not been, and indeed cannot be, relied upon to correct for at least the above-noted deficiencies of Yamauchi. Therefore, independent claims 1 and 17 are distinguishable over the combination of Yamauchi and Wakui.

Claims 16 and 33 depend from claims 1 or 17. Therefore, for at least the reasons stated with respect to claims 1 and 17, these dependent claims are also distinguishable from the combination of Yamauchi and Wakui.

Applicants respectfully request that the rejection of claims 16 and 33 based on Yamauchi and Wakui be withdrawn.

§ 102 REJECTION – SUGA

Claims 35-40 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Suga et al. (USPN 6,449,426). *See Final Office Action, page 14, item 5.* Applicants respectfully traverse.

In this instance, Suga fails to teach or suggest each and every claimed element. In the Final Office Action, the Examiner relied upon Figure 10 (and more specifically to the operation unit 409 which includes a recording medium selection button 63) and column 9, line 46 – column 10, line 17 of Suga to allegedly disclose the feature of "a selection controller for automatically selecting said write-execution medium wearable unit according to a data

characteristic that reflects a user's medium selection trait" as recited in claims 35 and 38.

The Examiner's reliance is misguided. The relied upon portion of Suga merely discloses that when the recording medium button 63 is activated, the recording medium selector 64 selects either the recording medium in the first drive 408 or the second drive 410. *See Suga, column 9, lines 35-51.*

Contrary to the Examiner's allegation, Suga is utterly silent regarding the basis under which either the first or the second drive is selected. Indeed, the suggestion is that the user manually selects the drive through the use of the button 63 simply based on availability. Thus, Suga cannot be relied upon to teach or suggest the feature of automatically selecting a write-execution medium wearable unit according to a data characteristic that reflects a user's medium selection trait. Therefore, independent claims 35 and 38 are distinguishable over Suga.

Claims 36-37 and 39-40 depend from independent claims 35 and 38. Therefore, for at least the reasons stated with respect to the independent claims, these dependent claims are also distinguishable over Suga.

The dependent claims are also distinguishable on their own merit. For example, the Examiner alleges that Suga discloses the feature of the data characteristic being set based on the resolution of image data to be written as

featured in claims 36 and 39, and relied upon column 4, lines 5-52 and column 10, lines 12-17.

This is contrary to Suga's disclosure. Suga is directed to determining whether sensing a single image or sensing a sequence of images is possible based on the properties of a recording medium. *See column 1, lines 8-14.* The image sensing parameters include number of pixels (or image size) per frame, a frame rate for sequential image sensing operation, and a compression ratio. *See column 4, lines 5-25.*

Suga discloses that if a recording medium 421 meets the inequality $Rmin < Nmin$ x $Frmin$ x Cr (Rmin is the recording speed of the recording medium, Nmin is the minimum number of possible pixels per frame, Frmin is the minimum number of possible pixels per frame, and Cr is the compression ratio), the recording medium 421 is deemed "unavailable" for recording in sequential mode. *See column 6, lines 7-28; Figure 2.*

Depending on the particular mode selected by the user, the apparatus as disclosed in Suga merely displays the "available" recording mediums that can be used or other appropriate warning messages are issued. For example, as illustrated in Figure 6, if the number of pixels is set, the apparatus merely displays choices of frame number of pixels available and unavailable for the current recording medium. *See column 8, lines 57-65-33.* This strongly indicates that the actual selection is manually performed by the user based

merely on availability, which is contrary to the Examiner's allegation. Thus, claims 36 and 39 are distinguishable over Suga on their own.

In addition, it is noted that Suga cannot be relied upon to teach or suggest selecting a write-execution medium according to any type of data characteristics reflecting a user's medium. Then it is logical that Suga cannot be relied upon to teach or suggest the feature of setting the data characteristic based on the type of data to be written as featured in claims 37 and 40.

For at least the reasons stated above, Applicants respectfully request that the rejection of claims 35-40 based on Suga be withdrawn.

§ 103 REJECTION – SUGA

Claims 41-43 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Suga. *See Final Office Action, page 15, item 6.* Applicants respectfully traverse.

Independent claim 41 recites, in part, "selecting ... a medium wearable unit according to a data characteristic that reflects a user's medium selection trait." It has been shown above that Suga cannot be relied upon to teach or suggest at least this feature. Therfore, claim 41 is distinguishable over Suga.

For at least due to the dependency thereon claim 41, claims 42 and 43 are also distinguishable over Suga.

Applicants respectfully request that the rejection of claims 41-43 based on Suga be withdrawn.

NEW CLAIMS

Through this Reply, claims 44-49 have been added. Applicants respectfully submit that the new claims are distinguishable over all cited references, individually or in any combination. Applicants respectfully request that the new claims be allowed.

CONCLUSION

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,,

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